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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Morris Publishing Group, LLC
Petitioner,

v.
Southern California Public Radio
Registrant

)
) Cancellation No. 92051186
)
) Mark: PACIFIC DRIFT
)
) Reg. No.: 3,054,173
)

78/536,454

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451, on April 5, 2010.

By: Lisa Joyce
Name: Lisa Joyce

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Commissioner:

We are transmitting herewith the attached:

- ☒ Return postcard.
- ☒ Transmittal Sheet containing Certificate Under 37 C.F.R. 1.8
- ☒ Motion to Compel Responses to Discovery Requests and Exhibits A-D

Please charge any additional fees or credit overpayment to Deposit Account No. 50-0996 (SCPR.101TA).

CRAWFORD MAUNU PLLC
1150 Northland Drive, Suite 100
St. Paul, MN 55120
(651) 259-2302

By: Linda M. Byrne
Name: Linda M. Byrne
Reg. No. 32,404

04-12-2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Morris Publishing Group, LLC

Petitioner,

v.

Southern California Public Radio

Registrant

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) Cancellation No. 92051186

) Reg. No.: 3,054,173

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MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Commissioner:

Pursuant to Rule 2.120(e) of the Trademark Rules of Practice and for the reasons set forth below, the Registrant, Southern California Public Radio, respectfully moves the Trademark Trial and Appeal Board (the "Board") for an Order compelling Petitioner, Morris Publishing Group, LLC, to respond to outstanding discovery requests for the following reasons:

1. Petitioner filed a Petition for Cancellation against Registrant's mark on or about July 3, 2009.
2. Registrant served Interrogatories, Document Requests and Admission Requests on Petitioner on February 8, 2010. Petitioner did not request a time extension to respond, so the discovery responses were due March 15, 2010.

3. As a courtesy, Registrant's attorney sent a second copy of these discovery requests to Petitioner's attorney on March 22, 2010.
4. Since February 8, 2010, Registrant has received no type of discovery response or time extension request from Petitioner. As of April 8, 2010, Registrant has received no responses to Registrant's Interrogatories (Exhibit A), Document Requests (Exhibit B) and Admission Requests (Exhibit C).
5. Registrant's attorney contacted Petitioner's attorney by telephone and by letter concerning the responses to the outstanding discovery requests. Enclosed, for example, is Registrant's letter dated March 22, 2010 (Exhibit D). Petitioner's attorney has made no response to Registrant's communications.

REGISTRANT'S STATEMENT OF GOOD FAITH

Pursuant to Trademark Rule 2.120(e), Registrant, through its counsel, has made a good faith effort to resolve the issues presented in this Motion with Petitioner's counsel, but has been unable to do so.

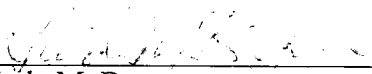
CONCLUSION

In view of Petitioner's failure to respond to the outstanding discovery requests, Registrant respectfully urges the Board to render an Order that the statements in the Admission Requests be deemed admitted, and for an Order compelling Petitioner to respond to Registrant's Interrogatories and Document Requests.

The discovery period is currently scheduled to expire on May 12, 2010. In order to give the parties time to complete discovery, Registrant requests that the discovery period and other dates be extended for an appropriate interval after the date of the Board's decision of this Motion.

Respectfully submitted,

SOUTHERN CALIFORNIA PUBLIC RADIO
By its attorneys:



Linda M. Byrne
Crawford Maunu PLLC
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St. Paul, MN 55120
(651) 259-2302 telephone
(651) 686-7111 fax
LByrne@ip-firm.com

Attachments: Exhibit A – Registrant's First Set of Interrogatories
Exhibit B – Registrant's First Set of Requests for Production
Exhibit C – Registrant's First Set of Requests for Admission
Exhibit D – Letter to Petitioner's Attorney dated March 22, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of April, 2010, the foregoing "MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS" were served by first class mail, postage prepaid, on counsel for Petitioner, in an envelope addressed as follows:

Timothy E. Moses
Hull, Towhill, Norman, Barrett & Salley
801 Broad Street, Suite 700
Augusta, GA 30901

Date: April 8, 2010

By: Lisa A. Joyce
Lisa A. Joyce

CERTIFICATE OF MAILING

I hereby certify that this MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS is being deposited with the United States Postal Service, first class mail, in an envelope addressed to Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on this 8th day of April, 2010.

Lisa A. Joyce
Lisa A. Joyce

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Morris Publishing Group, LLC)	
)	
Petitioner,)	Cancellation No. 92051186
)	
v.)	
)	Mark: PACIFIC DRIFT
Southern California Public Radio)	
)	
_____ Registrant.)	

REGISTRANT'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Registrant, Southern California Public Radio, requests that Petitioner, Morris Publishing Group, LLC, within thirty (30) days, answer under oath the interrogatories set forth below, subject to the following definitions and instructions:

- A. "Petitioner" means Morris Publishing Group, LLC, its officers, directors, employees, agents, and representatives.
- B. "Registrant" means Southern California Public Radio, its predecessors in interest, parent, subsidiaries, divisions, and related organizations, and their officers, directors, employees, agents, and representatives.
- C. "Identify" (with respect to persons) means to give (1) the person's full name, (2) present or last known address, (3) telephone number, and (4) when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this paragraph, only the name of that person or entity need be listed in response to any subsequent interrogatory requesting the identity of that person.

EXHIBIT A
Cancellation No. 92051186
Motion to Compel

- D. "Identify" (with respect to documents) means to give, to the extent known, the (1) type of document, (2) the subject matter, (3) date of the document, (4) location of the document, and (5) the author(s), addressee(s), and recipient(s).
- E. "Identify" or "specify" (with respect to facts) means to set forth (1) each fact, (2) the person(s) who is/are the source(s) of the fact, and (3) the identity of each document concerning each such fact.
- F. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all documents and things that might otherwise be construed to be outside its scope.
- G. The singular shall include the plural and the present tense shall include the past tense and vice versa in order to bring within the scope of the request all documents and things that might otherwise be construed to be outside its scope.
- H. "Concerning" means relating to, referring to, describing, evidencing, or constituting.
- I. If Petitioner objects to any of the interrogatories below based on claim of privilege or a claim that such interrogatories require the disclosure of attorney work product, please provide a general description of subject matter and the factual and legal basis for the objection.
- J. As to any responsive information that Petitioner desires to withhold on the basis of confidentiality, Registrant's attorney is prepared to receive such information subject to an appropriate protective order.
- K. Unless otherwise stated, these interrogatories cover the period from January 1, 2005 through the present.

INTERROGATORIES

Interrogatory 1

If Petitioner has used any mark containing the word "DRIFT" in United States commerce in connection with any products or services, please identify the mark, as well as each associated product and/or service, and state for each such product or service the date of first use.

Interrogatory 2

If Petitioner has previously sold, under a mark other than a mark containing the word "DRIFT," any of the products or services it currently sells or intends to sell under a mark containing the word "DRIFT," please identify each such product or service and state for each such product or service the date of first use, and the dates such products or services were sold or provided.

Interrogatory 3

Identify each person having information concerning Petitioner's adoption of, application to register, or first use of, any mark containing the word "DRIFT."

Interrogatory 4

Describe the channels of trade through which Petitioner's DRIFT publications are, or are intended to be, sold or distributed to consumers.

Interrogatory 5

Identify each person or agency who has participated in the creation or distribution of any advertising or promotional materials for Petitioner's DRIFT publications, and the period of time during which each such person or agency has participated.

Interrogatory 6

State Petitioner's yearly expenditures to date with respect to the advertising and promotion of its DRIFT mark.

Interrogatory 7

Identify each publication and other medium in which Petitioner's DRIFT publications have been advertised or promoted.

Interrogatory 8

Identify all assignments, licenses, or other transfers of rights in the mark DRIFT granted by or to Petitioner.

Interrogatory 9

Describe the circumstances under which Petitioner first became aware of Registrant's use and registration of its PACIFIC DRIFT mark.

Interrogatory 10

Identify for each person having information concerning any formal or informal trademark searches or investigations concerning any mark containing the word "DRIFT."

Interrogatory 11

Identify each person having information concerning any market studies, surveys, focus groups, or other studies that relate to any mark containing the word "DRIFT."

Interrogatory 12

Identify and detail any formal or informal objections to Petitioner's adoption, registration, or use of the mark DRIFT.

Interrogatory 13

Identify and detail any formal or informal objections by Petitioner to use by others of any other name, mark, or term that Petitioner believes to be confusingly similar to its DRIFT mark.

Interrogatory 14

If Petitioner received an opinion or opinions or counsel concerning its adoption and use or intended use of DRIFT, please identify such counsel and the opinion(s) given.

Interrogatory 15

Describe the present organizational structure of Petitioner as it relates to the promotion of DRIFT publications, and identify (a) each person who occupies or has occupied any executive or managerial position within this organizational structure since January 1, 2009, and (b) the dates during which each such person held each such position.

Interrogatory 16

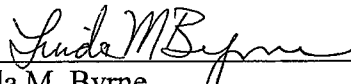
With respect to any response to Registrant's First Set of Requests for Admission that was not an unqualified admission, provide the basis for any such response.

Interrogatory 17

Identify each person who provided information or documents for responses to the above interrogatories or to Registrant's First Request for Production of Documents.

SOUTHERN CALIFORNIA PUBLIC RADIO

Dated: February 8, 2010



Linda M. Byrne
Crawford Maunu PLLC
1150 Northland Drive
Suite 100
St. Paul, MN 55120
Telephone: (651) 259-2302
Facsimile: (651) 686-7111
Lbyrne@ip-firm.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing: REGISTRANT'S FIRST SET OF INTERROGATORIES was served by first class mail, postage prepaid on:

Timothy E. Moses
Hull, Towhill, Norman, Barrett & Salley
801 Broad Street, Suite 700
Augusta, GA 30901

Date: February 8, 2010

By: Lisa A. Joyce
Lisa A. Joyce

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Morris Publishing Group, LLC)	
)	
Petitioner,)	Cancellation No. 92051186
)	
v.)	
)	Mark: PACIFIC DRIFT
Southern California Public Radio)	
)	
<u>Registrant.</u>)	

**REGISTRANT'S FIRST SET OF
REQUESTS FOR PRODUCTION**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Registrant, Southern California Public Radio, requests that Petitioner, Morris Publishing Group, LLC, within thirty (30) days, produce the documents and things requested below at the offices of the undersigned attorney, subject to the following definitions and instructions:

- A. Petitioner means Morris Publishing Group, LLC, its officers, directors, employees, agents and representatives.
- B. "Registrant" means Southern California Public Radio, its predecessors in interest, parent, subsidiaries, divisions, and related organizations, and their officers, directors, employees, agents, and representatives.
- C. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all documents and things that might otherwise be construed to be outside its scope.

EXHIBIT B
Cancellation No. 92051186
Motion to Compel

- D. The singular shall include the plural and the present tense shall include the past tense and vice versa in order to bring within the scope of the request all documents and things that might otherwise be construed to be outside its scope.
- E. "Concerning" means relating to, referring to, describing, evidencing, or constituting.
- F. If Petitioner objects to any of the requests below based on claim of privilege or a claim that such requests require the disclosure of attorney work product, please provide a general description of subject matter and the factual and legal basis for the objection.
- G. "Documents" is defined to be coextensive with the definition and scope of that term in Fed. R. Civ. P. 34(a) and the Notes of the Advisory Committee on Rules thereto. As such, the term includes, without limitation, electronic and computer data compilations, translated, if indicated, into reasonably usable form, and e-mail. A draft or non-identical copy is a separate document within the meaning of this term.
- H. If Petitioner objects to the production of any document or thing that falls within a request based on claim of privilege or a claim that such document or thing contains or constitutes attorney work product, please provide the following information:
1. the name of the document or thing;
 2. the name of the document or thing's originator, and, for documents, the name of the person to whom it is addressed and the names of all persons who were shown copies;
 3. a general description of the type of document or thing and the subject matter to which it pertains; and

4. the factual and legal basis for withholding the document or thing.
- I. As to any documents and things that Petitioner desires to withhold on the basis of confidentiality, Registrant's attorney is prepared to receive such documents and things subject to an appropriate protective order.
- J. Unless otherwise stated, these requests cover the period from January 1, 1994 through the present.

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

1. All documents and things concerning Petitioner's creation, consideration, design, development, selection, adoption, first use, and application to register the mark DRIFT.
2. All documents and things concerning Petitioner's decision to offer for sale products bearing the name or mark DRIFT.
3. Representative specimens of each label, container, trade dress, wrapper, or packaging Petitioner uses or has used for DRIFT products.
4. As to products that Petitioner currently sells or intends to sell under the DRIFT mark but previously has sold under any other mark, please produce representative specimens of each label, container, trade dress, wrapper, or packaging Petitioner has used for such products under any mark other than DRIFT.
5. Documents and things that disclose the territorial areas where Petitioner offers DRIFT products for sale, and the length of time during which each DRIFT product has been marketed in each territory.

6. Documents and things that disclose the channels of trade through which Petitioner offers, or intends to offer, DRIFT publications.

7. Documents and things that disclose representative consumers who have purchased or read Petitioner's DRIFT publications.

8. Documents and things that disclose Petitioner's yearly dollar and unit volume of sales to date and projected future dollar and unit volume of sales for each of its DRIFT publications.

9. All documents and things concerning Petitioner's past, present, or future marketing plan for its DRIFT products and/or services.

10. Representative specimens of all advertising and promotional materials for Petitioner's DRIFT products and/or services.

11. All documents and things concerning any assignment, license, transfer, or other conveyance to or from Petitioner of any right in the name or mark DRIFT.

12. All documents and things concerning Registrant or its PACIFIC DRIFT services.

13. All documents and things concerning the circumstances under which Petitioner first became aware of Registrant's use of its PACIFIC DRIFT mark.

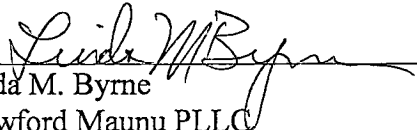
14. All documents and things concerning any formal or informal trademark searches or investigations concerning the DRIFT mark.

15. All documents and things concerning any objection, litigation, proceeding, or dispute relating to Petitioner's use of DRIFT.

16. All documents and things concerning present or former third party use of any name, mark, or term comprised in whole or in part of DRIFT or any variation thereof.

SOUTHERN CALIFORNIA PUBLIC RADIO

Dated: February 8, 2010


Linda M. Byrne
Crawford Maunu PLLC
1150 Northland Drive
Suite 100
St. Paul, MN 55120
Telephone: (651) 259-2302
Facsimile: (651) 686-7111
Lbyrne@ip-firm.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing: REGISTRANT'S FIRST SET OF REQUESTS FOR PRODUCTION was served by first class mail, postage prepaid on:

Timothy E. Moses
Hull, Towhill, Norman, Barrett & Salley
801 Broad Street, Suite 700
Augusta, GA 30901

Date: February 8, 2010

By: Lisa A. Joyce
Lisa A. Joyce

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Morris Publishing Group, LLC)	
)	
Petitioner,)	Cancellation No. 92051186
)	
v.)	
)	
Southern California Public Radio)	Mark: PACIFIC DRIFT
)	
Registrant.)	

REGISTRANT'S FIRST SET OF REQUESTS FOR ADMISSION

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Southern California Public Radio ("Registrant") hereby requests that Morris Publishing Group, LLC ("Petitioner") admit the matters listed below, in writing, within thirty (30) days.

If any objection is made, the reason therefor must be stated. Each answer must specifically be admitted or denied. If the matter is not specifically admitted or denied, set forth in detail the reasons why you cannot truthfully admit or deny the matter. A denial must fairly meet the substance of the requested admission, and when good faith requires that you qualify an answer or deny only a part of the matter of which an admission is requested, you must specify so much of it as true and qualify or deny the remainder. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and that the information known or reasonably obtainable is sufficient to enable you to admit or deny. If you believe that a matter of which an admission has been requested presents a genuine issue of trial, you may not on that ground alone object to the request.

The definitions set forth in Registrant's First Set of Interrogatories are incorporated herein by reference.

EXHIBIT C
Cancellation No. 92051186
Motion to Compel

Request No. 1

Admit that Petitioner's DRIFT mark is confusingly similar to Registrant's PACIFIC DRIFT mark.

Request No. 2

Admit that Registrant began to use PACIFIC DRIFT for its services before Petitioner began to use the DRIFT trademark.

Request No. 3

Admit that Registrant has not abandoned its use of PACIFIC DRIFT.

Request No. 4

Admit that Registrant's PACIFIC DRIFT mark is distinctive.

Request No. 5

Admit that there have been no instances of actual confusion involving the PACIFIC DRIFT and DRIFT marks.

Request No. 6

Admit that Registrant owns valid common law rights in the trademark "PACIFIC DRIFT."

Request No. 7

Admit that Petitioner's DRIFT publication is a free arts and entertainment monthly publication.

Request No. 8

Admit that Petitioner operates a website associated with the term DRIFT where readers can vote, listen to music and participate in blogs.

Request No. 9

Admit that Petitioner's DRIFT publication is accessible at <www.surfthedrift.com>.


Request No. 10

Admit that Exhibit 1 is a true and correct copy of the <www.surfthedrift.com> home page as of February 4, 2010.

Request No. 11

Admit that Petitioner distributes the DRIFT magazine in both online and print form.

SOUTHERN CALIFORNIA PUBLIC RADIO



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(651) 259-2302 telephone
(651) 686-7111 fax
Lbyrne@ip-firm.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing: REGISTRANT'S FIRST SET OF REQUESTS FOR ADMISSION was served by first class mail, postage prepaid on:

Timothy E. Moses
Hull, Towhill, Norman, Barrett & Salley
801 Broad Street, Suite 700
Augusta, GA 30901

Date: February 8, 2010

By: Lisa A. Joyce
Lisa A. Joyce

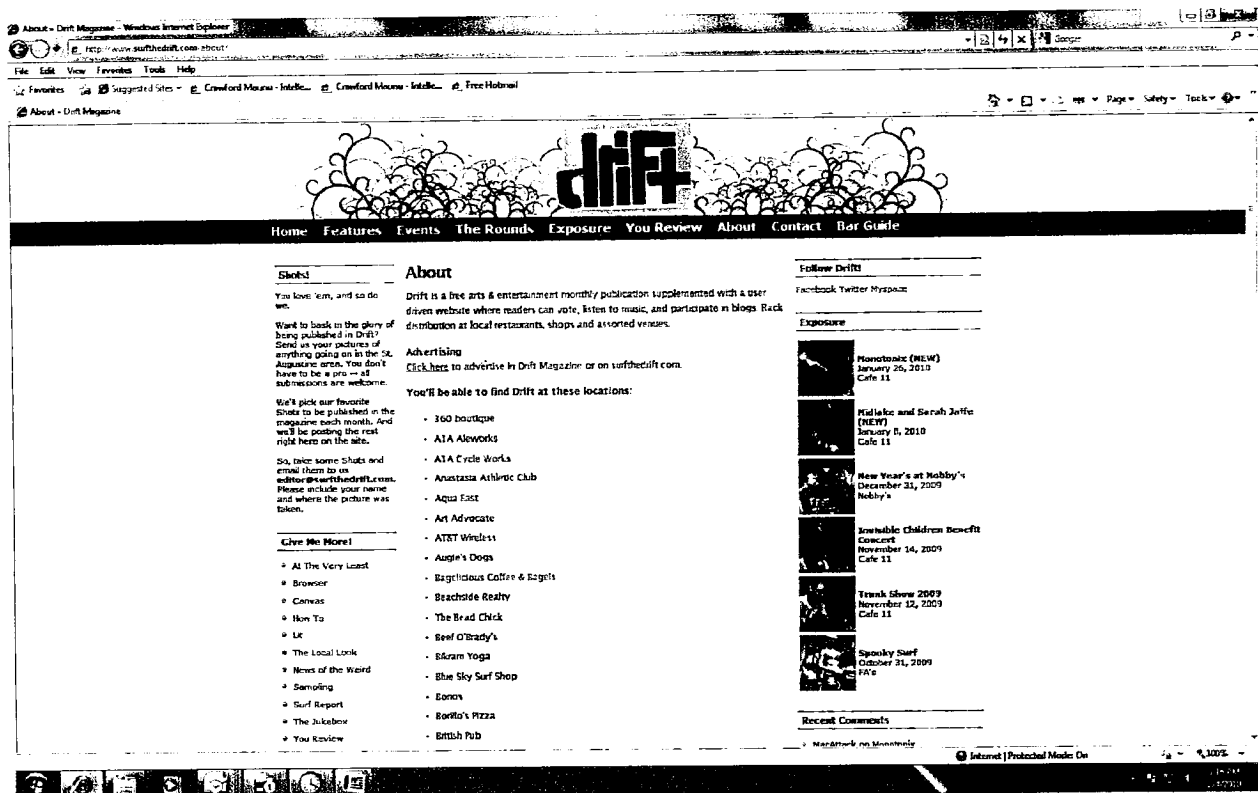


EXHIBIT 1

Cancellation No. 92051186
 Registrant's First Set of Requests for
 Admission

CRAWFORD MAUNU PLLC
Attorneys at Law
1150 Northland Drive, Suite 100
St. Paul, Minnesota 55120
651-686-6633 • fax 651-686-7111

E-Mail: LByrne@ip-firm.com
Direct Phone: (651) 259-2302

March 22, 2010

Timothy E. Moses
Hull, Towhill, Norman, Barrett & Salley
801 Broad Street, Suite 700
Augusta, GA 30901

Re: PACIFIC DRIFT Trademark Cancellation No. 92051186
Morris Publishing Group, LLC v. Southern California Public Radio
Our Ref.: SCPR.101TA

Dear Mr. Moses:


I left two voicemail messages with your office on March 17 to discuss the PACIFIC DRIFT trademark cancellation proceeding. Since I have not yet heard back from you, this letter is being sent.

On February 8, 2010, we served Registrant's first set of Interrogatories, Document Requests and Admission Requests on you. Enclosed is a courtesy copy of these documents. Morris Publishing's responses were due March 15, 2010, and you have not requested an extension beyond this date.

If we do not receive complete responses to the enclosed discovery requests by April 8, 2010, Southern California Public Radio will be forced to file a Motion to Compel.

If your client has chosen to take no further action regarding cancellation of the PACIFIC DRIFT trademark registration, please let us know. We look forward to receiving the responses to the enclosed discovery requests as soon as possible.

Very truly yours,


Linda M. Byrne
LMB/laj

Enclosures: Registrant's First Set of Interrogatories
Registrant's First Set of Requests for Production
Registrant's First Set of Requests for Admission

cc: Ms. Mitzi T. Gramling

EXHIBIT D
Cancellation No. 92051186
Motion to Compel